

The Honorable Richard A. Jones
The Honorable Brian A. Tsuchida

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

PACIFIC COUNTY TEA PARTY IE:
The PRIVATE SECTOR,

Plaintiff,

v.

VARIOUS DEEP STATE & FEDERAL
OFFICIALS and EMPLOYEES OF THE
PUBLIC SECTOR: Governor Jay Inslee,
Seattle Mayor Jenny Durkan, Seattle City
Council Members, Attorney General Bob
Ferguson, UW Law Professors, Chaz
Leaders 1-1000, Secretary of State Kim
Wyman, County Auditors 1-39, and Jane
and John Does 1-1000,

Defendants.

NO. 2:20-cv-00971-RAJ-BAT

REPLY IN SUPPORT OF DEFENDANTS'
MOTION TO DISMISS

NOTED: APRIL 30, 2021

I. INTRODUCTION

Rather than engage the substance of the Defendants' Motion to Dismiss, the Pacific County Tea Party doubles down on the same tactic that characterizes its amended complaint: hurling implausible legal conclusions at the wall in hope that one will stick. Even if the Tea Party were permitted to litigate without an attorney—which it is not—the Court should not entertain such sweeping claims that lack factual support. Pursuant to FRCP 12(b)(1), (4), (5), and (6), the Court

1 should dismiss the Tea Party's complaint with prejudice.¹

2 II. ARGUMENT

3 A. The Tea Party Says Nothing to Overcome Its Failure to Comply with Basic 4 Procedural Rules

5 Legal entities like the Tea Party may not litigate without representation. *Rowland v. Cal.*
6 *Men's Colony*, 506 U.S. 194, 201–03 (1993); LCR 83.2(b)(3). Notwithstanding his repeated
7 appearances in court as a pro se litigant, O'Hagan is not a licensed attorney. That alone is sufficient
8 basis for dismissing the Tea Party's complaint.

9 O'Hagan's proclamation of the "absurdness" of this requirement does not vindicate the Tea
10 Party of its obligations to comply with this Court's rules. Dkt. No 24, at 4. The Tea Party appears
11 to suggest that, because its members were "kidnapped and turned into political prisoners," it need
12 not be represented by a member of the bar. Dkt. No. 24, at 5. It is unclear what the Tea Party means
13 by "political prisoner," as there is no evidence suggesting that O'Hagan is detained. Nor is it clear
14 how this bears on this case: O'Hagan is not a party to this litigation. The Tea Party's suit cannot
15 proceed without counsel.

16 B. Even Looking Past the Complaint's Procedural Defects, the Tea Party's Claims 17 Strain Credulity

18 The Tea Party's complaint fails to live up to even the most lenient pleading standards.
19 Federal courts do not "entertain claims otherwise within their jurisdiction if they are so
20 attenuated and unsubstantial as to be absolutely devoid of merit, . . . obviously frivolous, . . . or
21 no longer open to discussion." *Zeiny v. United States*, No. 5:12-CV-02752 EJD,
22 2012 WL 4845617, at *6 (N.D. Cal. Oct. 10, 2012) (*Zeiny I*) (quoting *Hagans v. Levine*,
23 415 U.S. 528, 537 (1974)); see also *Zeiny v. United States*, No. 5:13-CV-01220 EJD,

24
25 ¹ Governor Inslee, Attorney General Ferguson, and Secretary of State Kim Wyman have been served, but
26 the other state defendants have not. In any event, the entire case should be dismissed with prejudice as to all
defendants.

1 2014 WL 1051641 (N.D. Cal. Mar. 17, 2014) (*Zeiny II*); *Zeiny v. United States*,
 2 No. 17-CV-07023-HRL, 2018 WL 1367389 (N.D. Cal. Mar. 16, 2018) (*Zeiny III*). In the *Zeiny*
 3 trilogy, the plaintiff was a repeat player who, like O’Hagan, would bring “a collection of claims”
 4 that ultimately resulted in dismissal. 2012 WL 4845617 at *1. *Zeiny I* dealt with “vague
 5 allegations of a CIA conspiracy to infiltrate Islamic centers and control the ability of Muslims to
 6 exercise their religion.” *Id.* at *6. *Zeiny II* involved a “speculative theory” by the same plaintiff
 7 alleging “a conspiracy of clandestine CIA control over Plaintiff’s travel, religious practice,
 8 medical care, and employment.” 2014 WL 1051641, at *4. *Zeiny III* addressed “a non-exhaustive
 9 list of twenty three acts of sabotage and harassment committed by the CIA against Zeiny.”
 10 2018 WL 1367389, at *1. In each of those cases, the court dismissed Zeiny’s claims because
 11 they failed to “offer any particulars” and instead provided “purely speculative accusations” that
 12 lacked “the factual support needed to survive a motion under Rule 12(b)(6).” *Id.* at *3. The Tea
 13 Party’s claims face the same trouble.
 14
 15

16 Like Zeiny, the Tea Party proffers vague accusations of a “Deep State” conspiracy but
 17 fails to substantiate its allegations with factual support. The amended complaint alleges, for
 18 example, that the “Deep State Defendants . . . are involved in maintaining protecting and
 19 promoting the Judicial Fraud Industry [that] sells injustices to the highest bidders.”
 20 Dkt. 15, at ¶ 3. However, the Tea Party does not clarify what “injustices” the Defendants
 21 allegedly sold, when the bargain occurred, and who transacted with the Defendants. The
 22 accusation does not allege “enough facts to state a claim to relief that is plausible on its face.”
 23 *Zeiny III*, 2018 WL 1367389, at *3 (quoting *Bell Atlantic Corp. v. Twombly*,
 24
 25
 26

1 550 U.S. 544, 570 (2007)). The Tea Party’s allegations, even when construed in their most
 2 favorable light, do not offer adequate factual substance to state a basis for relief.

3 The Tea Party’s response to the Defendants’ Motion to Dismiss only repeats this error
 4 while piling on additional legal conclusions. *See, e.g.*, Dkt. No. 24, at 9 (“The fact is the
 5 defendants have not denied the fact they violated RCW 42.17A.550 when AG Ferguson filed his
 6 lawsuit against President Trump and when Governor Inslee promised increasing social
 7 benefits.”). But courts “will not assume the truth of legal conclusions.” *Zeiny III*, 2018 WL
 8 1367389, at *3 (citing *Eclectic Properties E., LLC v. Marcus & Millichap Co.*, 751 F.3d 990,
 9 996 (9th Cir. 2014)). A “litany of complaints” without “any particulars” did not survive a
 10 12(b)(6) motion in the *Zeiny* cases. *Id.* The same tactic should fail here.

11 The response also raises what appear to be new factual allegations, but these additions
 12 do nothing to remedy the complaint’s lack of adequate factual material. *See, e.g.*, Dkt. No. 24,
 13 at 9 (“The fact is the defendants have not denied the fact the defendants are communist dictators
 14 that are addicted to power and riches, who utilized Nazi Gestapo tactics to satisfy their
 15 uncontrollable thirst for power.”). These new allegations, like those found in the complaint, do
 16 not offer this Court the level of detail necessary to infer a basis for relief. Thus, this Court should
 17 decline to entertain the Tea Party’s claims.

21 III. CONCLUSION

22 The Court should dismiss Pacific County Tea Party’s complaint with prejudice.

23
 24 DATED this 29th day of April 2021.

25 ROBERT W. FERGUSON
 26 Attorney General

/s/ Paul M. Crisalli

PAUL M. CRISALLI, WSBA #40681

Assistant Attorney General

*Attorneys for Defendants Bob Ferguson,
Governor Jay Inslee, and Secretary of State Kim
Wyman*

DECLARATION OF SERVICE

I hereby declare that on this day I caused the foregoing document to be served,
via U.S. Mail, via Consolidated Mail Services, on the following:

Pacific Coast Tea Party

2298 Cranberry Rd.

Grayland, WA 98547-9719

A courtesy copy was emailed to James J. O'Hagan at the following email
address:

wayoutwest1@hotmail.com

I declare under penalty of perjury under the laws of the State of Washington and
the United States of America that the foregoing is true and correct.

DATED this 29th day of April 2021, at Seattle, Washington.

/s/ Paul M. Crisalli

PAUL M. CRISALLI, WSBA #40681
Assistant Attorney General